



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 2, 1993

Mr. Paul H. Fleming, Ed. D.  
Superintendent  
Bastrop Independent School District  
105 Loop 150 West, Suite J.  
Bastrop, Texas 78602-3717

OR93-402

Dear Mr. Fleming:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19712.

The Bastrop Independent School District (the "school district") has received a request for a copy of a video tape recording of a school bus driver breaking up a fight between students on a school bus. You claim the school district does not wish to disclose the requested video tape because of students' privacy rights.

Section 3(a)(14) excepts "student records at educational institutions funded wholly, or in part, by state revenue." Section 14(e) incorporates another source of law, specifically, the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), into the Open Records Act, providing:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

V.T.C.S. art. 6252-17a, § 14(e); *see also* Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (*or personally identifiable information* contained therein other than

directory information, as defined in paragraph (5) of subsection (a) . . . ) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1) (emphasis added). "Education records" are records which:

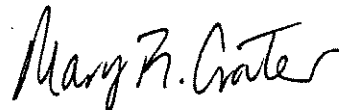
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

*Id.* § 1232g(a)(4)(A). Sections 3(a)(14) and 14(e) may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

We have reviewed the video tape submitted for our consideration. The tape reveals the faces of students and therefore contains "personally identifiable information" and must be withheld from disclosure under sections 3(a)(14) and 14(e) of the Open Records Act unless, in conformity with the provisions of FERPA, written authorization has been received from the parents<sup>1</sup> of every student who is identifiable on the video tape.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/LBC/lmm

Ref.: ID# 19712

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<sup>1</sup>We note that all of the students on the bus are minors and may not, therefore, provide written authorization themselves.

Enclosures: Marked documents

cc: Mr. Emile Ursin  
Route 2, Box 2275  
Cedar Creek, Texas 78612  
(w/o enclosures)